



Town of Nantucket

INVITATION FOR BIDS ELECTRICAL MAINTENANCE FOR THE TOWN OF NANTUCKET

The Town of Nantucket, through its Town Administration, invites qualified bidders to submit bids for Electrical Maintenance services for certain Town Buildings.

I. GENERAL INFORMATION AND BID SUBMISSION REQUIREMENTS.

- 1) Bids and specifications can be obtained from and will be accepted at the Town of Nantucket, Procurement Office, 16 Broad Street, Nantucket, MA 02554, until **Thursday, December 17, 2015 @ 11:00 AM** and publicly opened forthwith for this Invitation for Bids which is made in accordance with M.G.L. c 149. Two copies of the bid are required. The bid envelope must be sealed and clearly marked:

Bid for Electrical Services for Town Buildings

- 2) Award date. Award will be made within thirty (30) days after bid opening unless otherwise stated in the specifications or the time for award is extended by mutual consent of all parties. All bids submitted shall be valid for a minimum period of sixty (60) calendar days following the date established for acceptance.
- 3) If any changes are made to this IFB, an addendum will be issued. Addenda will be mailed or faxed to all bidders on record as having requested the IFB. Each responder shall acknowledge receipt of any and all addendum issues by submitting acknowledgment forms provided with any Addenda. **Failure to do so shall be cause to reject the submittal as being unresponsive.**
- 4) Questions concerning this IFB must be submitted in writing to: Heidi Bauer, Chief Procurement Officer, 16 Broad Street, Nantucket, MA 02554 **before Tuesday, December 15, 2015**. Questions may be delivered, mailed, emailed (hbauer@nantucket-ma.gov) or faxed. Written responses will be mailed or faxed to all bidders on record as having requested the IFB.
- 5) Bids may be modified, corrected or withdrawn only by written correspondence received by the Town of Nantucket prior to the time and date set for the bid opening. Bid modifications must be submitted in a sealed envelope clearly labeled "Modification No. ____" and must reference the original IFB.
- 6) After the bid opening, a bidder may not change any provision of the bid in a manner prejudicial to the interests of the Town of Nantucket or fair competition. Minor informalities will be waived or the bidder will be allowed to correct them. If a mistake and the intended bid are clearly evident on the face of the bid document, the mistake will be corrected to reflect the intended bid, and the bidder will be notified in writing; the bidder may not withdraw the bid. A bidder may withdraw a bid if a mistake is clearly evident on the face of the bid, but the intended correct bid is not similarly evident.
- 7) The Town of Nantucket reserves the right to reject any and all bids and to waive any informality in bids received whenever such rejection or waiver is in its best interest.

- 8) The Town of Nantucket will not be responsible for any expenses incurred in preparing and submitting bids. All bids shall become the property of the Town of Nantucket.
- 9) Responders must be willing to enter into the Town of Nantucket's standard form of contract that will include the scope of services description of this IFB.
- 10) The bid, and any subsequent contract for the services, is hereby issued in accordance with applicable Massachusetts General Laws. The selected bidder shall be expected to comply with all applicable state and federal laws in performance of service.

PREVAILING WAGE

- 11) Pursuant to Massachusetts General Laws, chapter 149, sections 26 and 27, the Division of Occupational Safety (formerly the Department of Labor and Industries) has determined the Prevailing Wage Rates for this work. The enclosed rates apply only to this work. The Prevailing Wage shall become part of the contract signed between the successful bidder and the awarding authority or the contract is invalid. Prevailing Wages must be paid to all persons employed on the public works project, regardless of whether they are employed by the successful bidder or a subcontractor. The wage rates issued for each project shall be paid for the entire project. Payroll records must be kept by the successful bidder for all persons employed on the project. A separate Statement of Compliance must be submitted to the Division of Occupational Safety by every employer, including all prime contractors and subcontractors, when its portion of the work is completed. The enclosed form entitled "Weekly Payroll Records Report and Statement of Compliance" clearly details these requirements. A certified payroll must be submitted to the Board of Selectmen office for each week work is performed for the Town under this contract.
- 12) Bids received prior to the date of opening will be securely kept, unopened. No responsibility will attach to an officer or person for the premature opening of a bid not properly addressed and identified.
- 13) Any bids received after the advertised date and time for opening will be returned to the responder unopened.
- 14) Purchases by the Town of Nantucket are exempt from federal, state and municipal sales and/or excise taxes.
- 15) The Tax Compliance Certification and the Certificate of Non-Collusion must be included with the bid response. The bid must be signed by the authorized individual(s).
- 16) Unexpected closures. If, at the time of the scheduled bid opening, Town Hall is closed due to uncontrolled events such as fire, snow, ice, wind or building evacuation, the bid opening will be postponed until 3:00 PM on the next normal business day. Bids will be accepted until that date and time.
- 17) The Town of Nantucket is an Affirmative Action/Equal Opportunity Employer. The Town encourages bids from qualified MBE/DBE/WBE firms.
- 18) Bidders should be aware that many overnight mailing services do not guarantee service to Nantucket.

Contractor must comply with: Chapter 306 of the Acts of 2004 § 1. (3) who shall certify that all employees to be employed at the worksite will have successfully completed a course in construction

safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration at the time the employee begins work and who shall furnish documentation of successful completion of said course with the first certified payroll report for each employee; and **SECTION 2** (3) that all employees to be employed in the work subject to this bid have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration. (b) Any employee found on a worksite subject to this section without documentation of successful completion of a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration shall be subject to immediate removal. **SECTION 5** This act shall take effect on July 1, 2006.

BID SUBMISSION REQUIREMENTS.

1. The Tax Compliance Certification must be included with the bid response. The bid must be signed by the authorized individual(s).
2. A signed Certificate of Non Collusion must be submitted with the bid response.
3. **Bidders must submit a bid deposit of five percent (5%) of the amount of the base bid.** Bid deposit may be in the form of a certified check; a bank, treasurers or cashier's check; or a bid bond from a surety company. A 50% payment bond must be submitted within 10 days of contract award.
4. Bid Price Forms to include the base bid and two line items.
5. Signature page from the Town's contract, signed by an authorized individual as a good faith statement that the contractor is willing to enter into the Town's standard contract form.
6. Current Certificate(s) of Insurance.
7. Reference list.
8. Current copies of OSHA 10 training cards for all individuals who will be working on this project.

II. SCOPE OF SERVICES.

Term of Contract and Options to Renew

This is a three (3) year contract.

1. PURPOSE

The intent and purpose of this Contract is to contract with qualified electrical contracting service provider to do routine maintenance (labor & materials) and repair services on an on-call basis. The Town will make one award to cover the Town's requirements.

2. SCOPE OF WORK

The Contractor shall furnish all labor, tools and equipment necessary for the complete and satisfactory performance of electrical maintenance on an on-call basis. All work shall be performed in accordance with Massachusetts General Law (MGL), Chapter 141 (latest revision).

The contract shall be for an hourly fixed rate for call out hours between 7:30 a.m. and 4:00 p.m., Monday thru Friday and a fixed rate for call out hours from 4:00 p.m. to midnight and midnight to 7:30 a.m. and a fixed rate for Saturdays, Sundays and Legal Holidays. The contract must show the above rates for a Master Electrician and stated rates for Journeyman and Apprentice. Massachusetts license number and proof of a Masters license will be required. The contractor must agree to around the clock coverage and shall provide the Town of Nantucket's Project Manager with a telephone number, cell phone number, and/or a pager number where the contractor can be reached in an emergency. Response time must be prompt and within a reasonable time. There will be no compensation for mileage or travel time. Billable hours shall commence upon arrival at the job site. Minimum rate shall be the same for all call back periods and must be noted as part of your contract. It is expected that the service vehicle used for all service trips will be well stocked with standard replacement parts and a complete set of standard tools and equipment so as to eliminate unnecessary time away from the job site

The Contractor shall be expected to perform routine and emergency electrical maintenance services at such facilities as municipal buildings, garages, schools, and water & sewer pump stations. The Contractor may also be expected to perform electrical maintenance service on Town owned decorative Street Lamps at the request of the Town. Note that the Town reserves the right to use a specialized lighting maintenance company to service the decorative Street Lamps, if it deems appropriate. Electrical maintenance services include, but are not limited to, installing wires, conduits, apparatus, fixtures or other appliances for carrying or using electricity for light, heat or power purposes. When requested, a written estimate shall be provided prior to commencement of work. Projects estimated to cost greater than \$10,000 will be contract separately.

The Town reserves the right to extend the contract for use by other departments or agency of the town only by mutual agreement of the contractor.

The contractor shall be required to be available, at no cost to the Town during the working day, at times mutually convenient to himself and a representative of the Town for consultation regarding potential work, to visit work locations and to prepare estimates. If the Contractor finds upon examination of the assigned job, that the work will be more extensive than originally ordered, he should contact the Town representative within 24 hours for authorization to proceed with the additional work.

Any and all work performed throughout the duration of the contract must be guaranteed by the contractor to be

completed in a workmanship-like manner and according to applicable codes and industry-accepted standards. Unless otherwise stated in specifications for a particular job, the contractor will supply all labor, equipment, materials, parts and supplies necessary to complete a service. The Town of Nantucket reserves the right to provide the materials for a job at their option. The contractor will be responsible for securing any and all necessary permits required prior to commencing work on any job. Emergency needs require 24 hour, 7 day a week availability of a service. Please respond in your bid if you are unable to agree to this.

Fire alarms: It is the condition of the contract that the Electrical Contractor shall have five (5) years minimum experience with systems such as, but not limited to, Notifier, Simplex and Spectronics systems.

It is the condition of the contract that the Electrical Contractor shall respond to an emergency request within one (1) hour after receiving notification of emergency.

NON-EMERGENCY REPAIRS must start within forty-eight (48) hours of receipt of a work order initiated by the Town of Nantucket's Project Manager or his/her designee.

This service must be provided on a 24 hour per day/7 days per week basis. If the contractor fails to respond in the required time period, this may be grounds for cancellation of this contract.

Services solicited through this CONTRACT are subject to the Massachusetts Prevailing Wage Laws. Applicable Prevailing Wage Rates are issued with this CONTRACT. These will become a part of any contract resulting from this CONTRACT. These wage rates will be valid for the duration of the contract including all renewals. It is the responsibility of the contractor to adhere to the Prevailing Wage Laws and all requirements. The contractor must submit a Weekly Payroll Report Form, which is included with this CONTRACT, to the Town of Nantucket.

It is intended that the Contractor shall accomplish the majority of work during normal business hours and on a straight time basis. Work shall not be accomplished on an overtime basis unless prior approval has been obtained. Standard hours of work shall be Monday-Friday 7:30 am until 4:00 pm. All work is to be quality work and shall be performed according to the standards of the industry and according to the plans, directions and instructions as presented by the authorized representative of the Town of Nantucket and must meet all state and town Building Codes.

The hourly rates reflect the amount a contractor will charge per hour only - not per hour per person. With the exception of the Surfside and Siasconset Wastewater Treatment Plants, and the pumping stations, Only one tradesman shall be assigned to work on a job. Prior permission must be received before the contractor can assign more than one worker per job, including apprentices/helpers. The town reserves the right to question whether additional personnel are warranted on a particular job based upon each job quote/proposal and performance status. Special attention will be given to allow for assistance when needed, or an unexpected parts acquisition is needed during a job to contain costs. However, the contractor must arrive at any routine job that he has quoted prepared with the appropriate personnel, equipment and supplies to perform the project with minor off-site time and travel.

The Contractor shall only use trained and licensed personnel who are directly employed and supervised by the Contractor unless prior approval is obtained. The Contractor shall not subcontract or sublet any portion of the work.

The Town of Nantucket reserves the right to inspect any and all work performed and in progress under these contracts. Any omission or failure on the part of the Town of Nantucket's representative to disapprove or reject inferior or defective work or materials shall not be construed to be an acceptance of such work or material. If any defective work or material is found during inspection, the contractor shall remove or repair, at his/her own expense, such defective work or material rejected and shall rebuild and/or replace it without extra charge.

All materials and equipment provided under the contract shall be listed and labeled for the purpose intended. All work provided under this contract shall have, as a minimum, a one (1) year warranty from the date of final acceptance thereof against any latent defects, design, materials, workmanship and installation.

The Contractor warrants that, unless otherwise specified, all materials and equipment, incorporated in the work under the Contract shall be new, first class, and in accordance with the Contract Documents. The Contractor further warrants all workmanship shall be first class and in accordance with the Contract Documents and shall be performed by persons qualified in their respective trades. Work not conforming to these warranties shall be deemed unacceptable and will not be paid.

3. GENERAL

The contractor must check in and out with the Plant Supervisor at Our Island Home, the DPW Director or his/her designee, the Harbormaster or his/her designee or the Town's Project Manager (or his/her designee/authorized Town employee), the Airport Facilities Manager, The School's Facilities Manager, the Land Bank Director, Wastewater Chief Operator or his/her designee and the Water Company Director for work to be performed at other municipal locations to determine the exact scope of the task required and open a request which specifies the work and labor force required. If the work is of a nature to require an electrical permit; then the electrical permit number shall be included on the request. After the work is completed, the contractor shall list the hours worked on site, the worker's name, trade skill level (licensed journeyman or registered apprentice) and the materials used. If an electrical permit is required, the request must have the inspector's signature. The invoice must show the labor hours and costs, the contractor cost and mark-up of all materials used, and any other miscellaneous charges.

4. PAYMENT

The Contractor will be paid per approved invoice (on a monthly basis). An invoice will be presented for the services performed. Invoices for any other building or department will be sent to 16 Broad Street Nantucket with the location of work done clearly listed on the Invoice and will be paid by the department requesting the work done. This invoice shall, at a minimum, identify the work that was done, where it was done, when it was done and who authorized it. Additionally, it will detail the unit cost and extended cost for each wage/labor category, Contractor cost and applicable markup for parts and/or materials and costs for equipment rental.

Buildings, garages, Decorative Street Lamps, piers & ramps included but not limited to:

Administration

- 16 Broad Street
- 25 Federal Street
- 76 Washington Street
- 1 Folgers Court
- 20 South Water Street
- 2 Fairgrounds Road

- 1 East Chestnut
- 37 Washington Street
- 38 Westchester Street
- 4 Western Avenue
- 15 Harbor View Way
- 4 Bathing Beach Road
- Hinsdale Road
- 30 Surfside Road – Teen Center
- Dionis Beach Bath house
- 130 Tom Nevers Road
- 20 South Water Street
- Decorative Street Lamps in various Locations (if requested)

Elder Affairs

- 83 Washington Street Extension

Fire Dept

- 131 Pleasant Street
- 135 Pleasant Street
- 10 West Sankaty Road
- 293 Madaket Road

Marine Dept

- 34 Washington Street
- 39 Washington
- Town Pier
- F Street Madaket
- 27 Massachusetts Avenue
- 109 Washington Street
- 47 Okorwaw Ave.

Our Island Home

- 9 East Creek Road

Police Dept

- 4 Fairgrounds Road
- 54 Low Beach Road

Natural Resources

Bathing Beach Road

2 Easton Street

DPW

- 188 Madaket Road

DPW Wastewater

- Abrehm's Quarry Pump Station # 6 Blueberry Lane
- Sherburne Commons Pump Station #15 S.Shore Road
- Airport Pump Station 1 Millers Way AKA Macy lane Pump station
- South Valley Pumping Station 95 Gold Finch Dr AKA Naushop
- Monomoy North Pump Station 61 Monomoy Rd

- Monomoy South Pump Station 15 Monomoy Rd
- 115 Washington St Pump Station
- Sea Street Pump Station 1 Sea Street
- Cato Lane Pump Station #4 Roberts Lane
- Aurora Way Pump Station # 78 Hummock pond Road
- Pine Valley Pump Station # 19 Mizzenmast Road
- Surfside Road Pump Station # 54 Surfside Road
- Sachems Path Pump Station Sachems Path village
- 81 South Shore Road – Surfside Waste Water Treatment Plant
- 57 Low Beach Road - Siasconset Waste Water Treatment Plant
- 5 A&B Hillside Ave, Town Housing
- 7 A & B Hillside Ave, Town Housing

Other Town Departments that may or may not use this contract:

NRTA

- Bunker Road garage

SCHOOLS

- All School buildings & equipment

AIRPORT

- All Airport buildings & equipment

WANNACOMET WATER COMPANY

- All Water Company buildings & equipment

QUALITY OF WORK

All work is to be quality work and shall be performed according to the standards of the industry and according to the plans, directions and instructions as presented by the authorized representatives of the Town of Nantucket and must meet all state and Town Building Codes.

TOWN OF NANTUCKET
BID SHEET

The undersigned hereby certifies that he is able to furnish labor that can work in harmony with the Town of Nantucket and its individual purchasing entities. It is mutually agreed that the proposed contractor is an independent contractor and is in no way an agent, servant or employee of any one of the purchasing entities.

The following prices represent firm prices for Contract Year 1, 2 & 3.

YEAR ONE

1. Monday thru Friday, 7:30 a.m. to 4:00 p.m.

Master Licensed Electrician \$_____/ per hour x 300 hours = (A) \$_____

Journeyman (Stated Rate) \$ _____ / per hour

Apprentice (Stated Rate) \$ _____ / per hour

2. Monday thru Friday, 4:00 p.m. - midnight, midnight - 7:30 a.m.

Master Licensed Electrician \$_____/ per hour x 25 hours = (B) \$_____

Journeyman (Stated Rate) \$ _____ / per hour

Apprentice (Stated Rate) \$ _____ / per hour

3. Saturday, Sunday & Legal Holiday's

Master Licensed Electrician \$_____/ per hour x 25 hours = (C) \$_____

Journeyman (Stated Rate) \$ _____ / per hour

Apprentice (Stated Rate) \$ _____ / per hour

YEAR ONE TOTAL \$ _____
(A+B+C)

Contractor Name: _____ **Date:** _____

YEAR TWO

1. Monday thru Friday, 7:00 a.m. to 5:30 p.m.

Master Licensed Electrician \$_____/ per hour x 150 hours = (A) \$_____

Journeyman (Stated Rate) \$ _____ / per hour

Apprentice (Stated Rate) \$ _____ / per hour

2. Monday thru Friday, 5:30 p.m. - midnight, midnight - 7:00 a.m.

Master Licensed Electrician \$_____/ per hour x 15 hours = (B) \$_____

Journeyman (Stated Rate) \$ _____ / per hour

Apprentice (Stated Rate) \$ _____ / per hour

3. Saturday, Sunday & Legal Holiday's

Master Licensed Electrician \$_____/ per hour x 15 hours = (C) \$_____

Journeyman (Stated Rate) \$ _____ / per hour

Apprentice (Stated Rate) \$ _____ / per hour

YEAR TWO TOTAL \$_____ (A+B+C)

Contractor Name: _____ **Date:** _____

YEAR THREE

1. Monday thru Friday, 7:00 a.m. to 5:30 p.m.

Master Licensed Electrician \$_____/ per hour x 150 hours = (A) \$_____

Journeyman (Stated Rate) \$ _____ / per hour

Apprentice (Stated Rate) \$ _____ / per hour

2. Monday thru Friday, 5:30 p.m. - midnight, midnight - 7:00 a.m.

Master Licensed Electrician \$_____/ per hour x 15 hours = (B) \$_____

Journeyman (Stated Rate) \$ _____ / per hour

Apprentice (Stated Rate) \$ _____ / per hour

3. Saturday, Sunday & Legal Holiday's

Master Licensed Electrician \$_____/ per hour x 15 hours = (C) \$_____

Journeyman (Stated Rate) \$ _____ / per hour

Apprentice (Stated Rate) \$ _____ / per hour

<p>YEAR THREE TOTAL \$_____ (A+B+C)</p>

Contractor Name: _____ **Date:** _____

PRICING SUMMARY

YEAR ONE TOTAL	\$ _____	Commencing 1/1/16
YEAR TWO TOTAL	\$ _____	Commencing 06/30/16
YEAR THREE TOTAL	\$ _____	Commencing 06/30/17
GRAND TOTAL	\$ _____	

NOTE: Minimum Call Back Will Be One (1) Hour.

All materials shall be invoiced at contractor's cost plus _____ %.

Receipt of Addendum Number(s) ___ Dated: _____ is hereby acknowledged and reflected in the Bid price (s) shown.

The undersigned proposes to provide services as described in the "Scope of Services" and the entire bid document in accordance with the Bid Specifications prepared by the Town of Nantucket, for the Bid price(s) shown, to the Larry Kester, Project Manager, Town of Nantucket, 16 Broad Street, Nantucket, MA 02554

The undersigned agrees that if presented with a Notice of Acceptance for this Contract, will within five days of receipt of a Contract Document, Saturdays, Sundays and legal holidays excluded, execute the Contract in accordance with the terms of this Bid.

The Town of Nantucket reserves the right to reject any or all bids and to waive minor informalities as provided under Chapter 149, M.G.L.

COMPANY NAME: _____

SIGNATURE: _____

PRINT NAME: _____

ADDRESS: _____

PHONE#: _____ DATE: _____

ON CALL PHONE # OR PAGER #: _____

MASS. MASTER ELECTRIANS LIC.#: _____

FEIN # _____

NOTE: All quantities are estimated for bidding purposes and shall not be construed as guaranties. The contractor will be reimbursed only for actual labor & supplies used.

All hourly rates shall include Overhead & Profit.

NOTE: *If the bidder is a corporation, indicate state of incorporation under signature and affix corporate seal; if a partnership, give full names and residential addresses of all partners; if an individual, give residential address if different from business address.*

Insurance Required:

- (a) Workers' Compensation, covering the obligations of the CONTRACTOR in accordance with applicable Workers' Compensation or Benefits laws.
- (b) Commercial General Liability Insurance on an occurrence basis with a combined single limit of not less than \$1 million. Coverage is to include premises and operations, coverage for liability of subcontractors. The policy shall contain an endorsement stating that the aggregate limits will apply separately to the work being performed under this Agreement.
- (c) Automobile Liability Insurance of not less than \$1 million combined single limit covering owned, hired and non-hired vehicle use.

III. QUALITY REQUIREMENT.

1. Bidders must provide all of the items described in Section II and comply with all of the bid submission requirements listed in Section I.
2. Bidder must have been regularly and actively engaged in the electrical repair business, operating under the same business name and business organization structure; and performing the type of work described above under "SCOPE OF WORK" for a minimum of five (5) years and must provide proof of this.
3. Bidder must provide proof of Insurance(s) in the bid

IV. REFERENCES.

Bidders must provide a complete list of municipal customers who it provided services for in the past three years. Reference information must include Company/Government Name, Contact Person, Current Phone Number, Fax Number and date of purchases. Poor references may be a basis for determining that a bidder is not responsible.

V. RULE FOR AWARD.

One contract will be awarded to the responsive and responsible bidder who meets the qualifying factors, can provide the services requested and offering the lowest **TOTAL BID AMOUNT**. This is a total bid amount contract which includes all costs associated with the items needed to complete the work as required. In the event of a tie of two vendors, the vendors will be invited to the procurement office for a coin toss to break the tie. In the event of a tie of more than two vendors, the vendors will be invited to the procurement office for a drawing of straws to break the tie.

VI. BASIS OF COMPENSATION.

Total bid amount contract including all costs associated with the items needed to complete the work as required.

CERTIFICATE OF NON-COLLUSION

The undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Signature of person signing bid or proposal

Date

Please Print Name

Name of Business

TAX COMPLIANCE CERTIFICATION

Pursuant to M.G.L. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Federal Employer ID Number

Name of Corporation

President's Signature

Date

Please Print Name

**AGREEMENT BETWEEN
THE TOWN OF NANTUCKET, MASSACHUSETTS
AND
XXXXXXX**

THIS AGREEMENT made effective _____, 2015, by and between the **TOWN OF NANTUCKET, MASSACHUSETTS**, a municipal corporation, acting by and through its Town Administration, with offices at Town Hall, Nantucket, Massachusetts 02554 (hereinafter called the "TOWN"), and **XXXXXXXXXXXXXXXXXX** whose principal office address and state of incorporation are as set forth on Exhibit A (hereinafter called the "CONTRACTOR").

RECITALS:

WHEREAS, the TOWN desires to retain the CONTRACTOR to provide certain services for the TOWN, as described below, and the CONTRACTOR is willing to accept such engagement, all on the terms hereinafter set forth,

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE 1 - ENGAGEMENT OF THE CONTRACTOR

- 1.1 The TOWN hereby engages the CONTRACTOR, and the CONTRACTOR hereby accepts the engagement to perform certain services for the TOWN, as described in Article 2.
- 1.2. In the performance of any service under this Agreement, the CONTRACTOR acts at all times as an independent contractor. There is no relationship of employment or agency between the TOWN, on the one hand, and the CONTRACTOR, on the other, and the TOWN shall not have or exercise any control or direction over the method by which the CONTRACTOR performs its work or functions aside from such control or directions which are consistent with the independent contractor relationship contemplated in the Agreement.

ARTICLE 2 - SERVICES OF THE CONTRACTOR

- 2.1 The CONTRACTOR will perform the services described in the Scope of Services set forth on Exhibit A (the "Work").
- 2.2 The CONTRACTOR shall report, and be responsible, to the TOWN and its designee (if any) as set forth on Exhibit A.
- 2.3 There shall be no amendment to the Scope of Services or Work provided for in this Agreement without the written approval of the TOWN. The TOWN shall be under no obligation to pay for any services performed by the CONTRACTOR which are not explicitly agreed to by the TOWN in writing.
- 2.4 The CONTRACTOR represents and warrants to the TOWN that the CONTRACTOR (including all of its personnel, whether employees, agents or independent contractors) will be qualified and duly licensed (if necessary) to perform the services required by this Agreement and further agrees to perform its services in a professional manner, and in accordance with the reasonable standard of care implied by law and all

applicable local, state or federal ordinances, laws, rules and regulations, all of which are incorporated herein by reference. The CONTRACTOR will obtain and pay for any and all permits, bonds and other items required for the proper and legal performance of the Work.

- 2.5 The CONTRACTOR represents and warrants to the TOWN that it is not a party to any agreement contract or understanding which would in any way restricts or prohibits it from undertaking or performing its obligations hereunder in accordance with the terms and conditions of this Agreement.
- 2.6 All written materials and any other documents (whether in the form of "hard" copies, graphics, magnetic media or otherwise) which are received and produced by the CONTRACTOR pursuant to this Agreement shall be deemed to be "work for hire" and shall be and become the property of the TOWN upon the receipt and production of such items by the CONTRACTOR. The TOWN acknowledges that such materials are being prepared with respect to the specific project contemplated hereby and that any reuse of such materials by the TOWN in connection with any other project shall be at the TOWN's sole risk, unless otherwise agreed to by the CONTRACTOR in writing.
- 2.7 The CONTRACTOR shall be responsible for the professional and technical accuracy, and for the coordination, of all designs, drawings, specifications, estimates and other work or services furnished by CONTRACTOR or its consultants and subcontractors. The CONTRACTOR shall perform its work under this Agreement in such a competent and professional manner that detail checking and reviewing by the TOWN shall not be necessary. The CONTRACTOR shall supervise and direct the Work, using its best skills and attention, which shall not be less than such state of skill and attention generally rendered by the design and engineering profession for projects similar to the subject project in scope, difficulty and location.
- 2.8 The CONTRACTOR shall not use any subcontractors or sub-consultants (not identified herein) for any work required under this Agreement unless such use has been approved in advance in writing by the TOWN.
- 2.9 Notwithstanding anything to the contrary in this Agreement, the CONTRACTOR shall not be relieved of its obligations under this Agreement by the TOWN's performance, or failure to perform, any of the TOWN's administrative duties under this Agreement, including, but not limited to, the TOWN's review and/or approval of plans, estimates, programs, documents, materials, work and services furnished by CONTRACTOR.

ARTICLE 3 - PERIOD OF SERVICES

- 3.1 Unless otherwise provided on Exhibit A, the term of this Agreement shall commence on the date hereof and continue until the Work is completed to the TOWN's reasonable satisfaction.
- 3.2 The CONTRACTOR shall proceed with the Work promptly after receiving Notice to Proceed and will diligently and faithfully prosecute the Work to completion in accordance with the provisions hereof. In any event, the Work shall be completed no later than the date set forth on Exhibit A. The CONTRACTOR acknowledges that time is of the essence of this Agreement.
- 3.3 If the CONTRACTOR is delayed in the performance of any of its obligations under this Agreement by the

occurrence of an unforeseen event beyond its control such as fire or other casualty, abnormal adverse weather conditions, acts of God (collectively, "Unavoidable Events") which materially and adversely affect its ability to perform the Work, then the time for the CONTRACTOR to perform the Work shall be extended for such time as the TOWN shall reasonably determine is necessary to permit the CONTRACTOR to perform in light of the effects of the Unavoidable Event.

If an Unavoidable Event occurs which, in the TOWN's reasonable determination, makes the performance of the Agreement impossible without the expenditure of additional TOWN funds, the TOWN may, at its option, elect to terminate this Agreement upon thirty (30) days written notice.

ARTICLE 4 - PAYMENTS TO THE CONTRACTOR

- 4.1 The compensation due to the CONTRACTOR shall be paid in the amounts, and in the manner, set forth on Exhibit B, attached hereto.
- 4.2 The CONTRACTOR will bill the TOWN at the completion of the work unless otherwise provided on Exhibit B, with one or more invoices broken down to show the quantity of work performed and the percentage of the entire project completed, categories and amount of reimbursable expenses (if any), and provide such supporting data as may be required by the TOWN.
- 4.3 The TOWN will pay the CONTRACTOR upon review and approval of such invoices by the TOWN or its designee.
- 4.4 This engagement may be subject to budgetary restrictions which may limit the total amount of funds available for the Work. Accordingly, unless otherwise stated on Exhibit B, the TOWN will not be obligated to pay any amount in excess of the maximum project amount without the express written approval of the TOWN.
- 4.5 The CONTRACTOR and its sub-contractors shall not be compensated for any services involved in preparing changes that are required for additional work that should have been anticipated by the CONTRACTOR in the preparation of the documents, as reasonably determined by the TOWN.

ARTICLE 5 - TERMINATION

- 5.1 This Agreement may be terminated, with cause, by either the TOWN or CONTRACTOR, upon written notice given by the non-defaulting party. For the purposes of this provision, "cause" shall include the failure of a party to fulfill its material duties hereunder in a timely and proper manner.
- 5.2 The TOWN shall have the right to terminate this Agreement for its convenience and without cause upon ten (10) days written notice.
- 5.3 Following termination of this Agreement, the parties shall be relieved of all further obligations hereunder except:
 - (a) unless the TOWN terminates for cause under paragraph 5.1, in which event the TOWN shall be under no obligation to make any payments to CONTRACTOR except for those services satisfactorily provided, the TOWN shall remain responsible for payments for the services satisfactorily performed

and, unless this Agreement is for a lump-sum, expenses of CONTRACTOR reasonably accrued prior to the effective date of the notice of termination in compliance with this Agreement (less the value of any claims of the TOWN), all as determined by the TOWN in its sole discretion, but for no other amounts, including, without limitation, claims for lost profits on Work not performed; and

- (b) The CONTRACTOR shall remain liable for any damages, expenses or liabilities arising under this Agreement (including its indemnity obligations) with respect to WORK performed pursuant to the Agreement.

ARTICLE 6 - INSURANCE AND INDEMNIFICATION

6.1 The CONTRACTOR agrees to indemnify and save the TOWN harmless from any and all manner of suits, claims, or demands arising out of any errors, omissions or negligence by CONTRACTOR (including all its employees, agents and independent contractors) in performing the Work, or any breach of the terms of this Agreement by such CONTRACTOR and shall reimburse the TOWN for any and all costs, damages and expenses, including reasonable attorney's fees, which the TOWN pays or becomes obligated to pay, by reason of such activities, or breach. The provisions of this Section 6.1 shall be in addition to, and shall not be construed as a limitation on, any other legal rights of the TOWN with respect to the CONTRACTOR, in connection with this Agreement, and shall survive termination or expiration of this Agreement.

6.2 Before commencing work the CONTRACTOR shall obtain and maintain at its expense and from insurance companies of a Best Rating of A or better, which are licensed to do business in the Commonwealth of Massachusetts, insurance as set forth below. If the CONTRACTOR is permitted to sub-contract a material portion of the Work, or is otherwise identifying a third party to perform services for the Town, the CONTRACTOR shall assure that such sub-contractor or other third party also has such insurance.

- (a) Workers' Compensation, covering the obligations of the CONTRACTOR in accordance with applicable Workers' Compensation or Benefits laws.
- (b) Commercial General Liability Insurance on an occurrence basis with a combined single limit of not less than \$1 million. Coverage is to include premises and operations, coverage for liability of subcontractors. The policy shall contain an endorsement stating that the aggregate limits will apply separately to the work being performed under this Agreement.
- (c) Automobile Liability Insurance of not less than \$1 million combined single limit covering owned, hired and non-hired vehicle use.
- (d) Errors and Omissions Insurance of not less than \$2 million per claim. The coverage shall be in force from the date of execution of the Agreement to the date when all design and construction work is completed and accepted by the TOWN, unless, however, the policy is a "claims made policy," in which event the policy shall remain effective and in full force for a period of six (6) years after completion of all design and construction work relating to the engagement.
- (e) Such additional insurance as may be required to be carried by the CONTRACTOR by law.
- (f) Such additional insurance as the TOWN may reasonably require, as set forth on Exhibit A.

CONTRACTOR shall maintain such insurance during the term of Agreement and give the TOWN twenty (20) days written notice of any change or cancellation of coverage. Each insurer providing policies hereunder shall waive its rights to subrogate claims against the TOWN. The TOWN will be added as an additional named insured with respect to each such policy and such endorsement shall be reflected on a Certificate of Insurance to be delivered to the TOWN upon the execution of this Agreement and at such times thereafter as the TOWN may reasonably request.

ARTICLE 7 - GENERAL PROVISIONS

- 7.1 Upon the expiration or the termination of this Agreement for any reason, all data, drawings, specifications, reports, estimates, summaries and other work product which have been accumulated, developed or prepared by the CONTRACTOR (whether completed or in process) shall become the property of the TOWN upon payment for such to the CONTRACTOR and the CONTRACTOR shall immediately deliver or otherwise make available all such material to the TOWN.
- 7.2 Neither party may assign, transfer or otherwise dispose of this Agreement or any of its rights hereunder or otherwise delegate any of its duties hereunder without the prior written consent of the other party, and any such attempted assignment or other disposition without such consent shall be null and void and of no force and effect.
- 7.3 Except as otherwise expressly provided in this Agreement, any decision or action made by the TOWN relating to this Agreement, its operation, amendment or termination, shall be made by the Board, Committee or Authority of the TOWN specified in the initial paragraph of this Agreement, unless specifically authorized or delegated by a lawful vote of such body.
- 7.4 This Agreement, together with Exhibit A (Contractor, Scope of Work, Term), Exhibit B (Payments), and Exhibit C (Tax Compliance Certificate), and any additional exhibits referred to therein, constitute the entire agreement of TOWN and CONTRACTOR with respect to the matters set forth therein and may not be changed, amended, modified or terms waived except by a writing signed by TOWN and CONTRACTOR. If there is any conflict among the terms set forth in the body of this Agreement and the terms or provisions set forth in Exhibit A or Exhibit B, or in any other attachment hereto, or in any other document or law incorporated by reference herein, such conflict shall be resolved by giving precedence to the party's address above by certified mail, return receipt requested Terms or provisions contained in the following documents in accordance with the following hierarchy, with the topmost document of the highest priority:
 - A. Applicable federal, state and local laws, rules and regulations.
 - B. Amendments to this Agreement, if any.
 - C. Exhibits A and B.
 - D. This Agreement.
 - E. Any other attachments to this Agreement.

To the extent the conflict is not resolved by applying the above hierarchy, the conflict shall be resolved in a manner that results in the highest quantity and best quality of goods and services to the TOWN.

- 7.5 This Agreement is governed by the law of The Commonwealth of Massachusetts and shall be construed in accordance therewith. The parties agree that exclusive jurisdiction for any action arising out of or relating to this Agreement shall lie with the state and federal courts having jurisdiction over the county and state in which the Town is located and the parties hereby irrevocably waive, to the fullest extent permitted by law, any objection which they may now or hereafter have to the venue of any proceeding brought in such location and further irrevocably waive any claims that any such proceeding has been brought in an inconvenient forum.
- 7.6 Any notices required or allowed shall be to the person's address above by certified mail, return receipt requested.
- 7.7 Notwithstanding anything to the contrary in this Agreement, this Agreement is subject to the appropriation and availability of funds.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

TOWN OF NANTUCKET,
MASSACHUSETTS:

CONTRACTOR:

C. Elizabeth Gibson
Town Manager

Name
President

Funding Org/Obj:

FEIN:

Approved as to Funds Available

PO# _____

Bob Dickinson – Assistant Town Accountant

CONTRACT EXHIBIT A

CONTRACTOR, SCOPE OF WORK, TERM

1. Name of Contractor:
2. State of Incorporation:
3. Principal Office Address:
4. Description of Services:
5. Person, Department, or Committee, if any, to whom CONTRACTOR reports (§ 2.2):
6. Term of Agreement (§3.1):
7. Completion Date (§3.2):
8. Additional Insurance Coverage (§6.2(e)):

AGREEMENT EXHIBIT B

PAYMENTS

1. Lump Sum Method
 - a. Maximum Project Amount:
 - b. **Payment Increments:** CONTRACTOR shall submit monthly invoices based on a percentage of work complete work as delineated in a progress report accompanying each invoice for approval and processing by the TOWN.
 - c. **Reimbursable Expenses** (if any): None.

TAX COMPLIANCE CERTIFICATION
EXHIBIT C

Pursuant to M.G.L. 62C, Sec.49A, the undersigned certifies under the penalties of perjury that it, to the best knowledge and belief of management, has filed all state tax returns and paid all state taxes required under law (if any, are so required).

By:

Name, President

Date

FEIN:

BIDDER'S CHECKLIST

Required for bid submittals:

- ☐ Bid response form
- ☐ Non-collusion form
- ☐ Tax compliance certificate
- ☐ Reference list
- ☐ Signature page from Town of Nantucket contract agreement
- ☐ Proof of Insurance
 - ☐ Bid deposit